

UNITED STATES DISTRICT COURT

for the

Western District of North Carolina

United States of America

v.

THALMUS JATON LINDER

Date of Previous Judgment: October 20, 2003

(Use Date of Last Amended Judgment if Applicable)

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Case No: 5:02CR00037-006

USM No: 19148-058

James S. Weidner, Jr

Defendant's Attorney

Order Regarding Motion for Sentence Reduction Pursuant to 18 U.S.C. § 3582(c)(2)

Upon motion of ☒ the defendant ☐ the Director of the Bureau of Prisons ☐ the court under 18 U.S.C. § 3582(c)(2) for a reduction in the term of imprisonment imposed based on a guideline sentencing range that has subsequently been lowered and made retroactive by the United States Sentencing Commission pursuant to 28 U.S.C. § 994(u), and having considered such motion,

IT IS ORDERED that the motion is:

☒ **DENIED.** ☐ **GRANTED** and the defendant's previously imposed sentence of imprisonment (as reflected in the last judgment issued) of _____ months **is reduced to** _____.

I. COURT DETERMINATION OF GUIDELINE RANGE (Prior to Any Departures)

Previous Offense Level: 37

Amended Offense Level: 35

Criminal History Category: VI

Criminal History Category: VI

Previous Guideline Range: life to life months

Amended Guideline Range: life to life months

II. SENTENCE RELATIVE TO AMENDED GUIDELINE RANGE

- ☐ The reduced sentence is within the amended guideline range.
- ☐ The previous term of imprisonment imposed was less than the guideline range applicable to the defendant at the time of sentencing as a result of a departure or Rule 35 reduction, and the reduced sentence is comparably less than the amended guideline range.

No reduction due to the mandatory statutory minimum sentence. While a motion for downward departure under USSG §5K1.1 and 18 U.S.C. §3553(e) was granted at sentencing, there is no change in the guideline range since the Notice under 21 U.S.C. §851 enhancing the statutory minimum sentence to a mandatory term of life imprisonment was not withdrawn. The §851 had the effect of restricting the revised guideline range to life pursuant to USSG §5G1.1(c)(2). See United States v. Spinks, 373 Fed.Appx. 426 (4th Cir.2010) (unpublished) (citing United States v. Hood, 556 F.3d 226, 233 (4th Cir.2009)).

☒ Other (explain):

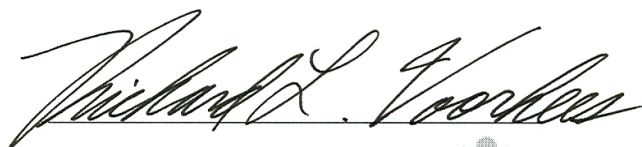
III. ADDITIONAL COMMENTS

Except as provided above, all provisions of the judgment dated October 20, 2003 shall remain in effect.

IT IS SO ORDERED.

Order Date: January 20, 2011

Effective Date: January 20, 2011



Richard L. Voorhees
United States District Judge



(if different from order date)